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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,849	06/15/2001	David D. Oakey	14060/260090	1929
23370	7590	07/12/2005	EXAMINER A, PHI DIEU TRAN	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			ART UNIT 3637	PAPER NUMBER

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/882,849

Applicant(s)

OAKLEY ET AL.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-12,14-27,41,43-46,54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-12,14-27,41,43-46,54,55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Haselwander (6035749).

Haselwander shows a method of imparting a grouted edge appearance to a flooring module having at textile face and a plurality of edges, the method comprising moving the module (12) and a shear relative to each other to remove a portion of the textile face along each edge of the module, wherein the module is moved in a first direction (the direction is illustrated by the roller 20 of figure 5 wherein the module is direction is tangential to the roller) relative to a first shear and a in a direction orthogonal to the first direction (as illustrated by the direction of the

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part illustrated as 52, 50, figure 5) after rotating the module (rotating the module to move it in a different direction) in a mechanically driven continuous process.

3. Claim 7-12, 14-16, 18-20, 41, 43-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Haselwander (6035749).

Haselwander shows an apparatus comprising a shear, a machine driven conveyor for moving one of the module or the shear relative to the other of the shear or the module, moving the module relative to the shear, the shear is a tile edger, moving shear relative to the module (perspectively the shear and module are moving relative to each other), at least two shears, the conveyor moves each of the module edges past at least one of the shears, first and second linear conveyor, the second conveyor moving in a direction orthogonal to the first conveyor, the first and second pairs of treating head each comprising a heat source, the heat surface being hot air gun, the conveyors advancing the module at different speed (per the different diameter of the conveyors), the first conveyor advancing the module in a direction orthogonal to the direction of the second conveyor, the position of at least one treating head relative to the module edge is adjustable.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2, 22-26, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haselwander (6035749).

Haselwander show at least one mechanical conveyor that supports the underside of the flooring module, conveying the module in a first direction (the direction is illustrated by the roller 20 of figure 5 wherein the module is direction is tangential to the roller) past first treating head to remove a portion of the textile face along an edge of the module, the module is also moved in a second direction orthogonal to the first direction to past a second treating head (as illustrated by the direction of the part illustrated as 52, 50, figure 5) in a mechanically driven continuous process.

Haselwander shows all the claimed structures. The claimed method steps of imparting a grouted edge appearance to a flooring module would have been the obvious method steps of imparting a grouted edge appearance with Haselwander's structures.

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haselwander (6035749) in view of Moen (3994256).

Haselwander as modified shows all the claimed structures. The claimed method steps of imparting a grouted edge appearance to a flooring module would have been the obvious method steps of imparting a grouted edge appearance with Haselwander's modified structures.

7. Claims 17, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haselwander (6035749) in view of Moen (3994256).

Haselwander show all the claimed limitations except for the heat source being a glue gun.

Moen shows a heat source being a glue gun.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Haselwander's structure to show the heat source being a glue gun because a glue gun is functionally equivalent to a hot air gun as they both function the same shear the module textile fibers.

Per claim 21, Haselwander as modified shows the position of the hot air gun relative to the module edge being adjustable.

### ***Response to Arguments***

8. Applicant's arguments filed 5/4/05 have been fully considered but they are not persuasive.

Applicant states that Haselwander does not show the module being moved in a first direction and a second direction orthogonal to the first direction after rotating the module, examiner respectfully disagrees. as pointed out above, Haselwander shows the module being moved in a first direction per the first roller tangential to the roller, and then being rotated and moved in a second direction orthogonal to the first direction by the second roller 26. the reference shows the claimed limitations and there is no need to modify the reference. The argument is thus moot.

With respect to the rejection of claims 2, 22-26, 55, the added language in the rejection is to clarify the rejection as to the direction of the movement of the modules. The rejection is still consistent with the original rejection, and not a new rejection. Also, the position is consistent with the original rejection set forth for claims 7-12, 14-16, 18-20, 41, 43-46.

With respect to applicant's arguments to trimming treating only the edges, the claimed language does not limit the treatment only to the edges. The argument is thus moot.

With respect to rotating, the claimed language has not made clear as to the orientation of rotation. The claimed limitation is thus subjected to reasonable broad interpretation.

With respect to the rotation being 90o, examiner respectfully points out that the rotation as shown by Haselwander is orthogonal and thus is 90o. the argument is thus moot.

With respect to "multiple energy sources for simultaneously treating each edge of the module", examiner respectfully points out that Haselwander shows many shears treating each edge simultaneously. The argument is thus moot.

As the arguments to the different claims are to the similar nature as set forth above, the arguments are thus moot for all the claims.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

7/8/05